

**Before the
Federal Communications Commission
Washington, D.C. 20554**

| | | |
|--------------------------------------|---|----------------------|
| In the Matter of |) | |
| |) | |
| Lifeline and Link Up Reform |) | WC Docket No. 11-42 |
| and Modernization |) | |
| |) | |
| Telecommunications Carriers Eligible |) | WC Docket No. 09-197 |
| for Universal Service Support |) | |
| |) | |
| Connect America Fund |) | WC Docket No. 10-90 |
| |) | |

**COMMENTS OF THE TELECOMMUNICATIONS
REGULATORY BOARD OF PUERTO RICO**

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August 28, 2015

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**COMMENTS OF THE TELECOMMUNICATIONS
REGULATORY BOARD OF PUERTO RICO**

The Telecommunications Regulatory Board of Puerto Rico (the “Board”) respectfully submits these comments in response to the Commission’s Second Further Notice of Proposed Rulemaking in the above-referenced dockets.¹

With household income levels substantially lower and a poverty rate markedly higher than any state, the broadband adoption gap in Puerto Rico is chasm that is adversely affecting Puerto Rico’s socioeconomic potential. Fixed broadband adoption in Puerto Rico stands at 46% – a level far lower than any other state. There are over 676,000 households without fixed broadband in Puerto Rico and most are low-income. The number of Puerto Rico residents without fixed broadband is larger than the number of non-adopters in 40 states and territories. Closing the broadband adoption gap in Puerto Rico is a top priority of the Board and is an economic necessity for the people of Puerto Rico.

¹ *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71, 80 Fed. Reg. 42760 (2015) (“Notice”).

The Board strongly supports the expansion of the Commission's Lifeline program to include broadband service. One in four households in Puerto Rico receives Lifeline service, a percentage that is far higher than any state. Additionally, Puerto Rico is one of the few jurisdictions with a state Lifeline universal service program that supplements the federal Lifeline program, which the Board has administered since 2003. Despite economic challenges in Puerto Rico, the Lifeline program has been quite successful: the voice telephone subscription rate in Puerto Rico is 93.8%, only slightly lower than the national average of 97.7%.² Thanks to Lifeline, Puerto Rico has virtually closed the "voice adoption gap," and with proper expansion of the program, it can do the same for the broadband adoption gap. The impact that expanding Lifeline to broadband could have in Puerto Rico is discussed in Section I of these Comments.

Section II of these Comments offers the Board's recommendations on a number of questions relating to the administration and operation of the Lifeline program. In particular, the Board respectfully requests that the Commission consider the important and unique needs of Puerto Rico, specifically with regard to the questions the Commission raises about program administration and operations. The Board supports creation of a third party income verification and qualification process for Lifeline benefits, and offers suggestions below as to how such a process can work in Puerto Rico. Most notably, any third party process must recognize and account for the fact that federal assistance programs in Puerto Rico are different from the mainland. For example, as discussed more fully below, the Commission has made several interesting and important proposals regarding using the enrollment information in the USDA Supplemental Nutrition Assistance Program (SNAP) to coordinate and independently qualify households for Lifeline. However, SNAP does not operate in Puerto Rico; the equivalent

² Federal and State Staff for the Federal-State Joint Board on Universal Service, *Monitoring Report (2014)*. CC Docket No. 96-45, et al. (2014), Table 6.6.

program is the Programa de Asistencia Nutricional (PAN), a block grant from the USDA to the Government of Puerto Rico. Because of the funding limitations of the PAN block grant, a household must have a substantially lower income to receive PAN benefits in Puerto Rico than the same household would need to receive SNAP benefits on the mainland.³ As a result, were the Commission to rely solely or primarily on eligibility through nutrition benefits for the Lifeline program, Puerto Rico would suffer from a significant “qualification gap” into which tens of thousands households would fall.⁴ Instead, while coordination of benefit programs offers opportunities for program efficiency, the Commission should work with the government of Puerto Rico to close and prevent any such “qualification gaps.”

I. THE BROADBAND ADOPTION GAP IN PUERTO RICO IS SUBSTANTIAL, AND EXPANDING THE LIFELINE PROGRAM TO BROADBAND WOULD HELP CLOSE THE GAP (*Notice*, Section II.A)

The Board strongly supports the Commission’s proposal to expand the Lifeline program to include broadband. The majority of the population of Puerto Rico does not have broadband at home and are among the most disconnected population in the country. As the Commission expands the program, the Board urges the Commission to be mindful of the scale of the challenge Puerto Rico faces with regard to the adoption of digital technology and the special status of its federal social assistance programs, which have unique qualification processes and procedures. One in fourteen Americans without broadband at home live in Puerto Rico – the

³ A household qualifies for SNAP benefits if its income is less than 130% of the federal poverty guidelines. In contrast, for a Puerto Rico household to qualify for PAN, its income has to be *significantly* less than the federal poverty guideline. This is because PAN is a block-grant program subject to a fixed budget, so Puerto Rico is forced to ration PAN benefits to only the neediest of the needy.

⁴ A feasibility study commissioned by the USDA found that in 2010, if SNAP were available to Puerto Rico residents instead of PAN, 721,000 households in Puerto Rico would qualify for SNAP and 649,000 would participate – in contrast to the 554,000 enrolled in PAN. Food and Nutrition Service, U.S. Department of Agriculture, *Implementing Supplemental Nutrition Assistance in Puerto Rico: A Feasibility Study* (June 2010) (“USDA Puerto Rico Feasibility Study”).

success of the Commission's efforts to modernize the Lifeline program **depends** upon success in Puerto Rico.

A. The Broadband Adoption Gap in Puerto Rico is Larger than in Any State

The broadband adoption gap in Puerto Rico is larger than in any state – by several orders of magnitude. The majority of Puerto Rico households do not purchase broadband at home, and given low household income on the Island, the cost of service and equipment is a major barrier to adoption.

Table 1 on the following page compares home broadband adoption in Puerto Rico to the most recent results of the U.S. Census American Community Survey for selected states.

Table 1: Home Broadband Adoption Rate in United States, by State and Territory (in ascending order)

| State or Territory | Broadband Adoption Rate | State or Territory | Broadband Adoption Rate |
|--------------------|-------------------------|----------------------|-------------------------|
| Puerto Rico | 45.2% | | |
| Mississippi | 57.4% | Idaho | 73.2% |
| Arkansas | 60.9% | United States | 73.4% |
| Alabama | 63.5% | District of Columbia | 73.4% |
| New Mexico | 64.4% | Arizona | 73.9% |
| Louisiana | 64.8% | Illinois | 74.0% |
| West Virginia | 64.9% | Florida | 74.3% |
| South Carolina | 66.6% | Delaware | 74.5% |
| Oklahoma | 66.7% | New York | 75.3% |
| Tennessee | 67.0% | Vermont | 75.3% |
| Kentucky | 68.5% | Wyoming | 75.5% |
| Indiana | 69.7% | Nevada | 75.6% |
| Missouri | 69.8% | Virginia | 75.8% |
| Michigan | 70.7% | Minnesota | 76.5% |
| North Carolina | 70.8% | Rhode Island | 76.5% |
| South Dakota | 71.1% | Connecticut | 77.5% |
| Ohio | 71.2% | Oregon | 77.5% |
| Texas | 71.8% | California | 77.9% |
| Montana | 72.1% | Hawaii | 78.6% |
| Georgia | 72.2% | Maryland | 78.9% |
| Iowa | 72.2% | Washington | 78.9% |
| Pennsylvania | 72.4% | Alaska | 79.0% |
| North Dakota | 72.5% | New Jersey | 79.1% |
| Maine | 72.9% | Colorado | 79.4% |
| Nebraska | 72.9% | Massachusetts | 79.6% |
| Kansas | 73.0% | Utah | 79.6% |
| Wisconsin | 73.0% | New Hampshire | 80.9% |

Sources: U.S. Census Bureau, 2013 American Community Survey, Percent of Households with a Broadband Internet Subscription

But simply noting the adoption gap in Puerto Rico by percentages alone does not do justice to the impact and scope of this problem. **Nearly 2 million residents of Puerto Rico** – out of a total population of 3.7 million living in 1.2 million households – do not have broadband at

home. As Table 2 table shows, **there are more non-adopters in Puerto Rico than in 40 states and the District of Columbia.** Moreover, the number of Puerto Rico residents without broadband at home is larger than the disconnected populations of Idaho, Maine, Montana, New Hampshire, North Dakota, South Dakota, Vermont, and Wyoming **combined.**

**Table 2: Total Population without Home Broadband Subscription,
by State and Territory (in descending order)**

| State or Territory | Estimated Number of Non-Adopters | State or Territory | Estimated Number of Non-Adopters |
|--------------------|----------------------------------|----------------------|----------------------------------|
| California | 8,149,338 | Minnesota | 1,223,143 |
| Texas | 7,066,877 | Maryland | 1,200,070 |
| Florida | 4,802,029 | Arkansas | 1,117,556 |
| New York | 4,664,022 | Colorado | 1,030,681 |
| Pennsylvania | 3,393,944 | Oregon | 849,594 |
| Illinois | 3,263,588 | Iowa | 825,172 |
| Ohio | 3,242,133 | Connecticut | 777,918 |
| Michigan | 2,834,159 | Kansas | 752,545 |
| North Carolina | 2,744,911 | New Mexico | 721,525 |
| Georgia | 2,650,464 | Nevada | 658,152 |
| Tennessee | 2,058,372 | West Virginia | 632,354 |
| Puerto Rico | 1,996,566 | Utah | 564,411 |
| Indiana | 1,917,557 | Nebraska | 485,820 |
| Virginia | 1,901,907 | Idaho | 416,433 |
| New Jersey | 1,804,755 | Maine | 349,700 |
| Missouri | 1,760,516 | Hawaii | 284,903 |
| Alabama | 1,711,354 | Montana | 270,408 |
| Arizona | 1,651,783 | New Hampshire | 244,492 |
| Louisiana | 1,563,026 | Rhode Island | 237,055 |
| South Carolina | 1,516,240 | South Dakota | 228,796 |
| Wisconsin | 1,501,375 | Delaware | 225,142 |
| Washington | 1,409,054 | North Dakota | 182,488 |
| Kentucky | 1,334,809 | District of Columbia | 154,287 |
| Massachusetts | 1,295,536 | Vermont | 148,543 |
| Mississippi | 1,228,326 | Alaska | 145,472 |
| Oklahoma | 1,226,241 | Wyoming | 136,493 |

Sources: U.S. Census Bureau, 2013 American Community Survey, Percent of Households with a Broadband Internet Subscription; U.S. Census Bureau, 2013 American Community Survey Five-Year Estimates, Average Household Size of Occupied Housing Units; Connect Puerto Rico, 2014 Residential Technology Assessment

Closing the broadband adoption gap should be a matter of national concern. Per capita income in Puerto Rico is one third of that of the United States as a whole, and Puerto Rico also suffers from a significant broadband infrastructure gap. Nearly one million residents of Puerto Rico – **more than any state** – do not have access to 3 Mbps down/768 kbps up fixed broadband

service.⁵ Approximately one in fourteen Americans without access to 3 Mbps down/768 kbps up fixed broadband – nearly one million American citizens – live in Puerto Rico.⁶

Stated simply, Puerto Rico has by far the largest share of non-adopters in the nation, dwarfing that of most states, and the most disconnected population in the nation. The problem in Puerto Rico is so vast that the Commission cannot simply consider Puerto Rico to be a “unique” or “special case”: the success of the Commission’s Lifeline reform depends upon success in Puerto Rico.

B. Puerto Rico is Working to Close the Broadband Gap, and the Lifeline Pilot Program in Puerto Rico Shows that Lifeline Expansion to Broadband can have a significant and positive impact

The Government of Puerto Rico is committed to working with the Commission to address these broadband challenges. In recent years, the Government of Puerto Rico has undertaken a number of initiatives designed to close the adoption gap in Puerto Rico, including opening up public computing centers and training initiatives. Puerto Rico has worked with industry and non-profits to write two strategic broadband plans, and the current government’s work is guided by the *Gigabit Island Plan* that was finalized earlier this year.⁷

One of the largest barriers to broadband adoption in Puerto Rico is cost, and the experience of Puerto Rico’s providers with the Commission’s Lifeline broadband pilot program demonstrates that Lifeline can bridge this barrier. Puerto Rico was fortunate to have three

⁵ 2015 Broadband Progress Report, GN 14-126, 30 FCC Rcd. 1375, Appendix G (2015). To put this in perspective, the nation’s most populous state, California, is more than 10 times the population of Puerto Rico (38.8 million to 3.7 million), but only 500,000 California residents lack access to 3 Mbps/768 kbps broadband, compared to 988,000 in Puerto Rico. There are more “unserved” residents of Puerto Rico than the unserved populations of Colorado, Idaho, Montana, Nebraska, New Hampshire, New Jersey, Nevada, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Washington, and Wyoming combined.

⁶ Letter from Hon. Javier Rúa Jovet, Chairman, Telecommunications Regulatory Board of Puerto Rico, to Hon. Tom Wheeler, Chairman, Federal Communications Commission, WC Docket No. 10-90 (June 15, 2015) (discussing broadband availability gap in Puerto Rico and Board’s recommendations for the Connect America Fund Phase II “frozen support” process).

⁷ *The Gigabit Island Plan: Puerto Rico Broadband Strategic Assessment* (Feb. 2015), http://www.connectpr.org/sites/default/files/connected-nation/pr_gigabit_plan_020915_final.pdf.

providers selected by the Commission to participate in the Lifeline broadband pilot (PR Wireless, Puerto Rico Telephone Company/Claro, and T-Mobile Puerto Rico), and collectively, those providers signed up more Lifeline broadband subscribers than the rest of the nation's pilot projects combined.⁸ Most importantly, during the short duration of the program, Puerto Rico saw significant and measurable gains in broadband adoption, which coincided with a gradual lowering of the price barrier to adoption.

In the last five years, pursuant to a grant from the U.S. Department of Commerce, National Telecommunications and Information Administration, Connect Puerto Rico has conducted regular surveys of broadband adoption and barriers in Puerto Rico. In 2012, before the pilots began, broadband adoption in Puerto Rico was 35%, and 30% of non-adopters cited the cost of service or equipment as the main barrier to adoption. After the three Lifeline broadband pilots launched in 2013 in Puerto Rico, aggressive advertising campaigns and pricing strategies, as were documented in the pilot program reports,⁹ began. By 2014, broadband adoption in Puerto Rico had climbed to 46% and the perception of cost being the main barrier to adoption had changed. By 2014, only 20% of Puerto Rico non-adopters said that the cost of broadband service or a device was the main barrier to entry, representing a substantial shift.

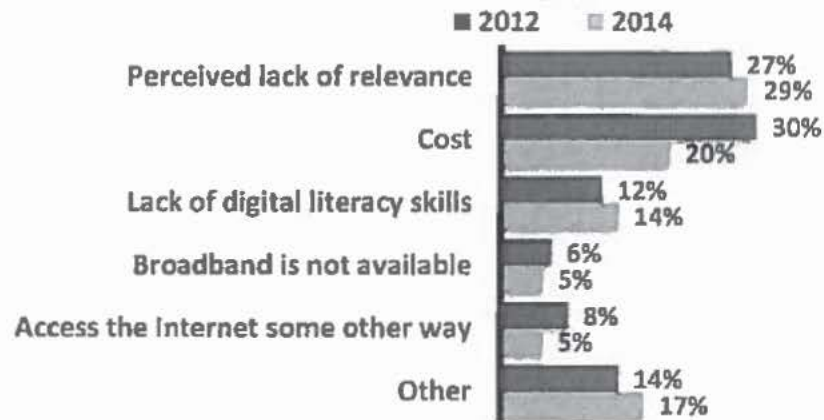
⁸ Federal Communications Commission, Wireline Competition Bureau, Low Income Broadband Pilot Program Staff Report, WC Docket No. 11-42, DA 15-624 (Wireline Comp. Bur. 2015) (Broadband Pilot Report) at Table 2.

⁹ See, generally, PR Wireless, Inc. Final Report, WC Docket No. 11-42 (Feb. 12, 2015) (PR Wireless Report); T-Mobile Puerto Rico, LLC, WC Docket No. 11-42 (May 18, 2014) (T-Mobile Final Report).

<https://www.fcc.gov/encyclopedia/low-income-broadband-pilot-program>.

Chart 1: Main Barriers to Home Broadband Adoption in Puerto Rico

Source: Connect Puerto Rico Residential Technology Assessments, 2012, 2014

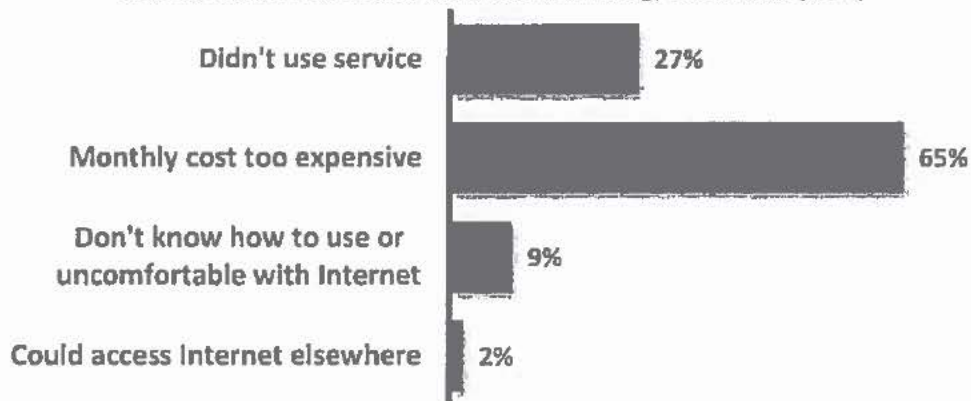


It is important to note that these advances were made even with the burdensome and cumbersome qualification process. Puerto Rico providers participating in the pilot all reported lost opportunities due to the income verification process; however, the Board believes that the outreach and education activity associated with the pilot, including strategies such as setting up promotional tents at Little League baseball games, led to increased awareness and education of broadband service options to Puerto Rico's low-income community.

Progress during the pilot was incremental, however, and immense gaps remain. Among Puerto Rico adults in the lowest income bracket (those with an annual income of \$15,000 or less), cost is still by far the greatest barrier to adoption.

Chart 2: Barriers to Home Broadband Adoption Among Low-Income Adults in Puerto Rico

Source: Connect Puerto Rico Residential Technology Assessment (2014)



These findings and experience indicate that a vibrant Lifeline program aimed at breaking down the cost barrier to adoption could make a significant dent in the broadband adoption gap in Puerto Rico. While the Lifeline pilot projects in Puerto Rico were limited, they are encouraging. If this level of progress can be made through a limited duration and scope pilot coupled with a burdensome and cumbersome qualification process, imagine what could be accomplished were broadband permanently part of the Lifeline program alongside efficient program management.

Puerto Rico's experience with Lifeline for voice service shows that the Lifeline program can close connectivity gaps. In Puerto Rico, through the efforts of the Commission and the Board's state-funded Lifeline fund, there is only a small "voice adoption gap," even with the Island's economic challenges. While other efforts, including digital literacy training, community outreach projects, and public computing centers, are also important to closing the broadband adoption gap, there is every reason to think that a strong Lifeline broadband program could bring hundreds of thousands of Puerto Rico residents into the Information Age.

II. COMMENTS ON SPECIFIC PROPOSALS IN THE *NOTICE*

In addition to its broad and enthusiastic support for expanding the Lifeline program to include broadband benefits, the Board provides comment on the following Commission questions in the *Notice* on program administration and operations. The Board has administered Puerto Rico's Lifeline fund since 2003, and these comments are based on that experience.

A. The Commission should establish a nationwide, third-party verification and qualification system for Lifeline benefits (Section II.B, ¶ 64)

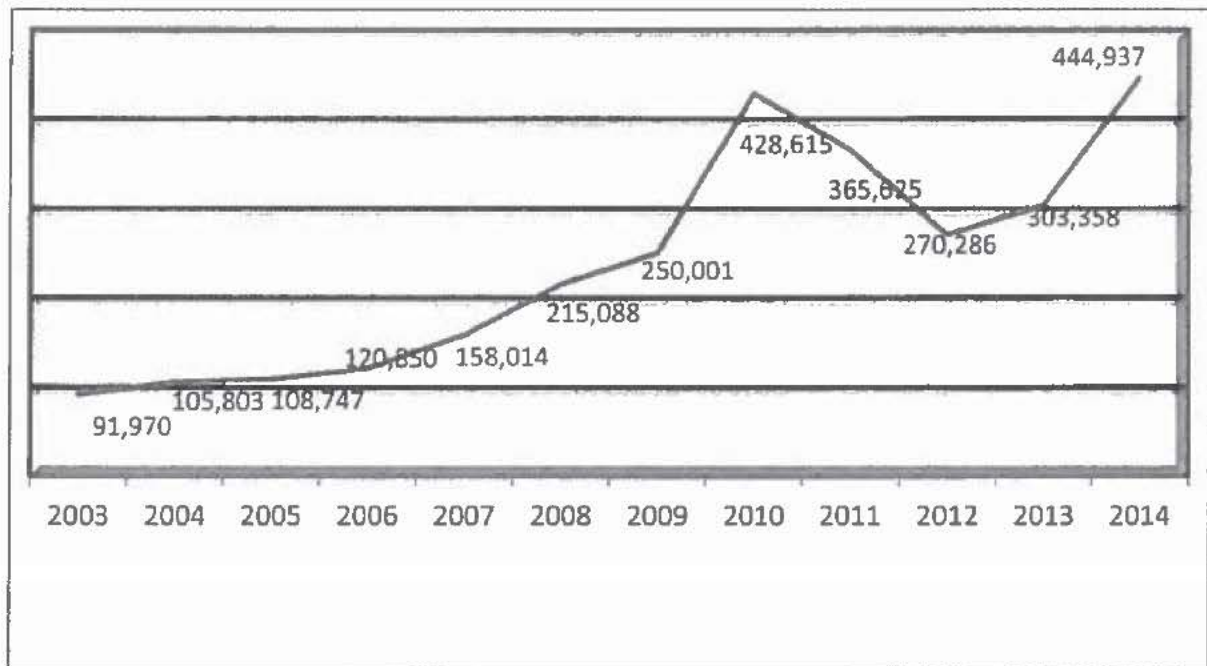
The Board strongly supports the Commission's proposal to create a "trusted, independent" third party that would validate the eligibility of households for the Lifeline benefit. The Board agrees that this move would bring "much-needed dignity to the program" (para. 61) and would substantially reduce administrative burdens. The Board also believes that removing providers from the income verification process will greatly reduce the waste, fraud, and abuse in the Lifeline program.

Puerto Rico is one of the few jurisdictions that supplements the federal Lifeline program with state funding. The Puerto Rico Telecommunications Act requires that the Board establish and administer a Puerto Rico universal service fund, which provides additive support to the federal Lifeline fund. The Puerto Rico universal service fund is financed through an assessment on intrastate telecommunications revenue on the Island, an assessment level currently at 1.39%. By law, the Board is required to operate the Puerto Rico fund in a way that "shall complement but not duplicate" federal USF support mechanisms. To administer the Puerto Rico fund, the Board designates ETCs, performs periodic audits of providers, and ensures that the Lifeline program rules are followed.

The Board believes that a national, third-party verification process would greatly assist in program administration. Before the Commission took a similar step in 2012, the Board acted to

create a Puerto Rico database in 2011 to attempt to identify duplicate entries in response to a surge in the growth in the Puerto Rico Lifeline program. During that process, over 260,000 subscriptions were de-enrolled from the Puerto Rico state Lifeline fund.

Chart 3: Yearly Subscribers to the Puerto Rico Lifeline Program, 2003-2014



Source: Telecommunications Regulatory Board of Puerto Rico

However, the Board has spent an inordinate amount of time and resources confirming customer eligibility and resolving disputes and disagreements since 2011. Last year, as the burden of operating a parallel accountability system grew, the Board requested to the Commission and USAC that Puerto Rico be included in the National Lifeline Accountability Database, a process that is still pending. The Board believes that turning over the entire income verification and duplicate assurance process to a national, third-party system that is funded through the federal universal service system would be the most efficient mechanism of administering the Lifeline program in an accountable way. Doing so would help states like

Puerto Rico that administer their own universal service programs, as those administrative cost savings for the Puerto Rico Universal Service Fund would then be available for other broadband policy initiatives.¹⁰

However, in doing so, the Commission should direct the third party verifier to work directly with the Board and Puerto Rico public assistance agencies in developing this function. Public assistance programs in Puerto Rico (and other territories) operate substantially differently than their sister programs on the mainland. As noted above, with the largest share of non-adopters in the nation, a population that dwarfs that of most states, Puerto Rico is not simply a “special” or “unique case” – the success of the Commission’s Lifeline reform depends upon success in Puerto Rico.

In particular, federal nutrition assistance in Puerto Rico does not operate through the SNAP program but instead is a federally-funded block grant program, with substantially different income qualification levels. The Puerto Rico Department of the Family maintains a database of households enrolled in the Nutrition Assistance Program for Puerto Rico (PAN) block grant program. The Board and providers are able to access the Family Department’s PAN enrollment database to see if an adult is already enrolled in PAN, and therefore eligible to qualify for Lifeline. This process has proven successful in Puerto Rico, to date, and the Board commits to work with the Commission and the Puerto Rico Department of Family to ensure that a national Lifeline third-party verification process can have a similar relationship.

As discussed below, however, income levels to enroll in PAN are substantially lower than they are to enroll in SNAP on the mainland. The table below shows for a Puerto Rico family

¹⁰ The Puerto Rico Universal Service Fund has seen the same challenges as the federal USF, through a sharply declining revenue base. Due to these financial pressures, the Board earlier this year had to cut the Puerto Rico Lifeline benefit to \$1 per month, down from \$3.50 per month, while more than doubling the contribution level from 0.5% to 1.39%. See Junta Reglamentadora de Telecomunicaciones de Puerto Rico, *In re Fondo de Servicio Universal*, Caso Num. JRT-2001-SU-0003, Resolución y Orden en Reconsideración (May 25, 2015).

to qualify for nutrition assistance, its net income must be between 23-36% of the federal poverty guidelines – substantially lower than the net income requirement for SNAP (100% of federal poverty guideline) or Lifeline generally (135%).

Table 3: Qualifying for Federal Nutrition Benefits in Puerto Rico (PAN) Requires Substantially Lower Income than Qualifying for SNAP Benefits on Mainland

| Household Size | Maximum Annual Income to Qualify for PAN | % Poverty Level to Qualify for PAN | Net Annual Income to Qualify for SNAP (100 poverty rate) |
|----------------|--|------------------------------------|--|
| 1 | \$2,796 | 23.9% | \$11,676 |
| 2 | \$5,592 | 35.5% | \$15,732 |
| 3 | \$7,188 | 36.3% | \$19,800 |
| 4 | \$8,556 | 35.9% | \$23,856 |
| 5 | \$9,912 | 35.5% | \$27,912 |
| 6 | \$11,316 | 35.4% | \$31,980 |
| 7 | \$12,708 | 35.3% | \$36,036 |

Source: U.S. Dep't of Agriculture, Supplemental Nutrition Assistance Program Eligibility, <http://www.fns.usda.gov/snap/eligibility>; Nutrition Assistance for Puerto Rico, Program and Eligibility Requirements, <http://www.benefits.gov/benefits/benefit-details/363>

As a result, while coordination with the PAN program can be a relatively efficient method of validating income in Puerto Rico, that method will not be of use to the tens of thousands of Puerto Rico households that make less than the poverty level but higher than the rate to qualify for federal nutrition benefits. These are tens of thousands of families that have incomes substantially below the poverty level that are at risk. Because the SNAP program is unavailable in Puerto Rico, in creating a comprehensive database of eligible households and third party verification process for Lifeline, the Commission will need to deploy additional effort and processes to validate income for Puerto Rico families.

B. Any national verification process or database should interface with existing state databases but should recognize that those databases may be insufficient and not identify all families that might qualify for benefits (Section II.B, ¶¶ 72-74)

The Puerto Rico Lifeline fund directly interfaces with the Puerto Rico Department of Family database of households enrolled in the Puerto Rico Nutrition Assistance Program, the Puerto Rico equivalent of SNAP. While this database does not contain all households that are eligible for federal Lifeline benefits on the Island, processes are already in place for accessing this database. The Board recommends that any national database or third-party verification process should directly interface with the Puerto Rico Department of Family and the PAN enrollment database. The Board believes that this access would improve program administration and efficiency in Puerto Rico.

However, as discussed above, in Puerto Rico, the PAN enrollment database does not include all households eligible for Lifeline, particularly because the household income threshold for enrolling in PAN is **considerably lower** than that of the SNAP program on the mainland or Lifeline program generally. It is critical that the Commission remember this if it creates a national third-party verification process.

C. The Commission should not require states and territories to establish a validation database as a condition of receiving Lifeline funds. States and territories should be allowed to “opt out” of a national verification process, but as a condition of doing so, both the state and the Commission put in place contingency plans for re-entry (Section II.B, ¶ 75)

The Board believes that states and territories should have the flexibility to “opt out” of a national validation process for Lifeline, but that in doing so, both the opting-out state and the Commission should have a contingency plan in place for re-entry.

The Board speaks from experience on this question. In 2012, when the Commission created the National Lifeline Accountability Database, it gave states the ability to opt out of that

database. Because Puerto Rico had established a state Lifeline accountability database in 2011 before the Commission acted, the Board believed that it would be in the best position to quickly root out waste, fraud, and abuse in the Puerto Rico Lifeline program, given its existing statutory responsibilities. As a result, the Board opted out of the NLAD, and from 2012-2013 it effectively reduced the number of duplicate Lifeline entries by the tens of thousands.¹¹ However, in 2014 the Board decided only to find that the cost and administrative burdens of building its own database would soon become prohibitive. As a result, in December 2014, the Board requested that the Commission and USAC let it join the NLAD, and eight months later, that still has not occurred due to the administrative complexity.

While opting out of the NLAD in 2012 likely allowed the Board to make aggressive progress in eliminating duplicate benefits on an immediate basis, the lack of a contingency plan for Puerto Rico to re-enter the NLAD has resulted in delay and financial strain on the Puerto Rico Lifeline fund. The Board believes that while an opt-out process for income verification should remain in place, before a state is allowed to opt out, both the state and the Commission should create a contingency plan for relatively speedy re-entry into the national verification process. That contingency plan should include an agreed-upon timeline for decisions to opt out and re-enter, timetables for any necessary database reconciliation, and notification process for providers.

D. Providers should be required to fund state and federal verification and implementation efforts through federal USF contributions (Section II.B, ¶¶ 80-82, 88, and Section II.E, ¶ 183)

Lifeline ETCs today currently bear much of the administrative burden of verifying eligibility for the Lifeline benefit. In the *Notice*, the Commission states that the “administrative

¹¹ Chart 3, *supra*.

burden that Lifeline providers face in verifying subscriber eligibility are significant.”¹² The Board notes that this burden is also shared by governments like Puerto Rico that operate and administer a state Lifeline fund. As discussed above, the Board strongly supports the Commission’s proposal to remove providers from this process and to verify eligibility through a third-party process. Doing so will result in more efficient program administration and would combat waste, fraud, and abuse that the provider-centered current process unfortunately incentivizes.

However, absent any other change, relieving Lifeline ETCs of the burden of verifying eligibility while keeping benefits at the same level will create a financial windfall to those providers. The Board believes that it is appropriate and efficient to have providers pay for state and federal verification and implementation efforts and databases through their federal universal service fund contributions.

The Commission has the legal authority to have the Universal Service Administrative Company (USAC) pay for universal service program administrative costs, and this has been extended to USAC contracting with third-parties for a number of functions in the past. For example, the National Lifeline Accountability Database is built by and operated for USAC, and that database is funded out of the administrative fee that the Commission pays to USAC. USAC also has paid for other universal service administration functions. In addition, the Connect America Cost Model, which is used by the Commission to identify areas of the country in need of “high cost” universal service fund subsidies and to calculate those subsidies, was built by CostQuest for USAC and is paid for out of the USAC administrative fee.

¹² Notice at ¶ 88.

The Board recommends that the costs of national and state Lifeline verification databases and implementation efforts should also be paid for by USAC and funded through federal USF contributions.

In addition, state and territorial agencies that “opt out” of a national validation process could, in effect, legally operate as contractors to USAC to perform verification functions in those states. The terms of any such opt-out would be subject to a contract between the state and USAC, subject to the Commission’s oversight. That contract should contain requirements and contingency plans for “re-entry” suggested by the Board above. Constructed in this manner, the Board believes that it would be appropriate and effective for USAC to contract with states and territories to build and operate Lifeline verification databases and functions, provided that those databases and functions meet certain minimum national standards, and that the state or territory demonstrates that the cost of any such contract is cost-effective. These contracts between states and USAC would ultimately be paid for through their federal USF contributions. This process would allow states and territories that have unique circumstances or needs for validation or verification services, or who might already have state-based qualification programs in place, to continue those services.

E. To incent state and territorial participation and funding, the Commission should provide eligibility and accountability tools that will allow state and territorial governments to supplement the federal Lifeline fund (Section II.B, ¶ 82, and Section II.C, ¶ 128)

In paragraph 128 of the Notice, the Commission asks about ways in which it can modernize the Lifeline program in a way that will incentivize state and territorial governments to “provide an additional subsidy for Lifeline service.” Since 2003, the Board has administered the Puerto Rico Lifeline Fund, which directly supplements federal Lifeline assistance in Puerto Rico.

As borne out by the Board's experience in implementing an intrastate Lifeline fund, the Commission can achieve this goal by allowing state and territorial governments flexibility in those programs and by engaging with direct and consistent outreach with state and territorial governments regarding program administration.

However, running a parallel state Lifeline fund is costly, and funds like Puerto Rico's are facing a shrinking contribution base similar to that of the federal universal service fund. This year, a dwindling intrastate revenue base has put substantial strain on the Puerto Rico Lifeline fund, and the Board has been forced to cut benefits. Until recently, the Puerto Rico Lifeline fund paid \$3.50 per month for each qualifying household. As of July 1, 2015, however, that benefit has been cut to only \$1 per month due to the shrinking contribution base for the fund.

Even with these struggles, the Government of Puerto Rico and the Board are committed to maintaining the Puerto Rico fund, to expanding its reach beyond voice to broadband, and to meeting its statutory obligation to ensure that the Puerto Rico fund complements federal universal service efforts. As noted above, Lifeline in Puerto Rico has been a success in respect to voice service, resulting in only a small difference between voice adoption in Puerto Rico and the mainland.

One important way in which the Commission can facilitate state and territorial initiatives would be to provide, to the maximum extent possible, national tools and databases for income eligibility and duplication checks. As discussed above, in 2011, before the Commission had voted to implement the National Lifeline Accountability Database, the Board had already begun to create a similar accountability database for Puerto Rico. The Board devoted substantial resources towards eliminating duplicative Lifeline subscriptions and carrier audits from 2011-2013, and that effort led to a decrease in Lifeline enrollments by over 260,000 over that period.

Despite this success, however, financial pressures on the Puerto Rico fund and the cost of that database soon became prohibitive. Last year, the Board requested the Commission to allow Puerto Rico to participate in the National Lifeline Accountability Database developed by USAC. The Board's request is still pending.

Puerto Rico's experience with the National Lifeline Accountability Database is instructive because it shows that the cost of running and administering a state Lifeline fund, as Puerto Rico has done since 2002, are considerable. The Board believes that if the Commission makes program administration tools and services (like eligibility and accountability for duplicates) available nationally, and offers those tools and services flexibly to states and territories, that states and territories would be able to devote their limited resources towards subsidizing service, and not in duplicating administrative efforts. As discussed above, the Board believes that an opt-out process that involves re-entry contingency planning and a showing of cost-effectiveness can result in an efficient method of program administration that will encourage states and territories to run and maintain parallel, complementary programs.

F. The Commission should explore coordinated enrollment with Puerto Rico social welfare agencies, in particular the Department of Family (Section II.B, ¶¶ 92-103)

The Board supports the Commission's proposal to pursue coordinated enrollment between the Lifeline program and federal and state social welfare agencies. In administering the Puerto Rico Lifeline Fund, the Board works closely with the Puerto Rico Department of Family and Department of Education with regard to verifying the income of qualified individuals and households.

The Board strongly urges the Commission to take into account the simple fact that the social welfare programs in Puerto Rico differ than states on the mainland. Most notably, as discussed above, the USDA Supplemental Nutrition Assistance Program (SNAP) available to

low-income families in all states is not available in Puerto Rico. Instead, the government of Puerto Rico has a block grant from USDA to implement the Nutrition Assistance Program (PAN).

As a result, while many of the Commission's ideas recounted in the *Notice* regarding coordination between the Commission and the SNAP program would be significant improvements,¹³ achieving those same laudable results will require direct Commission engagement with the Puerto Rico Department of Family and the PAN program. The Board stands ready to work directly with the Commission in this necessary outreach to the Puerto Rico government.

Most importantly, in implementing these ideas, the Commission should remember that eligibility for PAN assistance in Puerto Rico requires a substantially *lower* household income than qualifying for SNAP on the mainland. A household on the mainland can qualify for SNAP if its net income is 100% of the federal poverty guideline; in contrast, a household in Puerto Rico can only qualify for PAN if its net income is 23-36% of the federal poverty guideline. What this means is that while the Commission estimates that coordinated enrollment with SNAP on the mainland can reach 42% of Lifeline eligible households,¹⁴ that number will be sharply lower in Puerto Rico.

This "qualification gap" affects tens of thousands of households in Puerto Rico. A recent USDA study estimated that if SNAP were implemented in Puerto Rico, food stamp program participation would climb by 30%, from 554,000 families to over 721,000.¹⁵

¹³ *Notice* at ¶¶ 96-97 (noting potential improvements in verification and process and subscriber dignity from coordinated enrollment with SNAP); ¶¶ 99-100 (discussing possible Commission work with "SNAP Administrators" in states and asking whether SNAP Administrators should "pre-approve" Lifeline eligibility upon SNAP enrollment); ¶ 103 (proposing to pre-load Lifeline eligibility onto SNAP EBT cards).

¹⁴ *Notice* at ¶ 95.

¹⁵ USDA Puerto Rico Feasibility Study, *supra* note 4, at Table 2.1.

Were the Commission to rely solely or primarily on coordinated enrollment with PAN in Puerto Rico, hundreds of thousands of Puerto Rico residents risk falling into a “qualification gap” that would make Lifeline benefits more difficult to obtain than if they were living on the mainland.

In addition, the Commission cannot coordinate Lifeline enrollment with the National School Lunch Program in Puerto Rico, because families do not enroll in that program in Puerto Rico. Because of the poverty that is endemic to the island, every K-12 public school student in Puerto Rico receives a free lunch. The Government of Puerto Rico receives reimbursement from the USDA for school lunches based on poverty rate and a negotiated reimbursement rate, and the Government makes up the rest. No student enrollment is necessary.¹⁶ As a result, there are no student records with which to coordinate enrollment between the NSLP and Puerto Rico families.

The Board urges the Commission to work directly with it and the government of Puerto Rico to overcome these challenges in order to devise a coordinated enrollment and outreach process that recognizes the fact that these federal assistance programs operate differently in Puerto Rico.

G. To avoid creating a “qualification gap,” the Commission should not limit the methods of qualification for Lifeline in Puerto Rico and should recognize and account for the unequal treatment of Puerto Rico in the SNAP, SSI, and TANF Programs (Section II.B, ¶¶ 112-117)

Because of its territorial status, Puerto Rico residents are treated unequally with regard to enrollment in many federal assistance programs, including Supplemental Security Income and Temporary Assistance for Needy Families. Moreover, the SNAP program is simply not available

¹⁶ Puerto Rico has one unified school district. Puerto Rico receives reimbursement for school lunches served from the USDA pursuant to the National School Lunch Program in a similar method as the states, and the reimbursement rate is based on poverty levels in schools.

to Puerto Rico residents, replaced by the Nutrition Assistance Program (PAN). PAN is a block grant from the USDA to the Puerto Rico Department of Family, and funding and household subsidy levels for PAN are substantially lower than SNAP on the mainland. As a result, qualifying for PAN requires a significantly lower household income than qualifying for SNAP on the mainland.

The Commission should not limit qualification for Lifeline to families enrolled in SNAP or the NSLP if for no reason other than the fact that SNAP is not available to Puerto Rico residents and because Puerto Rico does not enroll individual families with students into the NSLP, as all school lunches in Puerto Rico are free. As a result, the Commission's consideration of proposals to "streamline" Lifeline qualification to enrollees in SNAP and NSLP ¹⁷ simply will not work in Puerto Rico.

In addition, for reasons discussed above, the Commission should not limit Lifeline eligibility in Puerto Rico to PAN eligibility. Doing so would drop hundreds of thousands of Puerto Rico residents into an unconscionable "qualification gap." For a Puerto Rico family to qualify for federal nutrition assistance through the PAN program, it must have a net income generally from one-quarter to one-third of the federal poverty level. This is in stark contrast to qualification for SNAP, in which a mainland family qualifies if its net income is at or below the poverty guidelines.¹⁸ This disparity is sharp and stark, especially given the higher cost of living in Puerto Rico.¹⁹

¹⁷ Notice at ¶¶ 111-13, and n.234.

¹⁸ USDA Puerto Rico Feasibility Study, *surpa* note 4, at Table 2.1.

¹⁹ The Cost of Living Index found that the cost of living in the San Juan-Caguas-Guaynabo metropolitan statistical area in Puerto Rico, which covers almost half of the island, is 13% higher than the costs on the mainland. The Puerto Rico statistical area placed 41st out of the 325 studied by the Council for Community and Economic Research. Supermarket items are 22.7% higher on average. Utility costs are among the highest in the country, 85% higher than average. Council for Community and Economic Research, *Puerto Rico Joins the Cost of Living Index*, (Dec. 15, 2014), <http://blog.c2er.org/2014/12/puerto-rico-joins-the-cost-of-living-index/>; Dennis Costa, "Public utilities in

This “qualification gap” also results in higher costs for administering Lifeline in Puerto Rico. Because assistance programs do not cover as many Puerto Rico residents as they do on the mainland, there is, out of necessity, a greater reliance on the independent income verification process to determine whether a family has income that meets the 135% poverty income threshold to qualify for Lifeline. If the Commission takes away or limits the independent income qualification process,²⁰ thousands of Puerto Rico households would be simply unable to receive Lifeline benefits that those with comparable incomes on the mainland would receive. This would be an unconscionable outcome, given the gaping broadband adoption gap in Puerto Rico.

Therefore, the Commission should not consider limiting Lifeline eligibility to certain federal programs as long as those programs treat Puerto Rico residents unequally and with different income requirements for eligibility. Doing so would toss hundreds of thousands of Puerto Rico residents into a “qualification gap” of the Commission’s own making and would potentially destroy the effectiveness of Lifeline in Puerto Rico.

At a minimum, the Commission must ensure that there is a process in place that would allow Puerto Rico residents to prove tens of thousands of low-income citizens in Puerto Rico do not fall into a “qualification gap”. As long as federally-funded social service programs like TANF and food stamps do not treat Puerto Rico equally and require substantially lower income levels for qualification than on the mainland, the Commission must retain a process for income qualification at the full level of the Lifeline benefit.

P.R. cost 85% more than those in the rest of the U.S.,” *Caribbean Business* (Dec. 18, 2014), http://www.caribbeanbusiness.pr/prnt_cd/public-utilities-in-p.r.-cost-85-percent-more-than-those-in-the-rest-of-the-u.s.-10730.html.

²⁰ Notice at ¶ 114.

**H. All recipients of high-cost subsidies should be required to offer Lifeline services
(Section II.C, ¶¶ 125-126)**

The Commission still should require that all recipients of high-cost Connect America Fund subsidies participate in the Lifeline program by offering qualifying voice and broadband Lifeline service.

It would be improper to confuse the policy goal of opening up Lifeline to more competition by relaxing social obligations that are rightly attached to the payment of high-cost, build-out subsidies to providers. The federal universal service fund currently provides network subsidies of over \$4 billion per year to eligible telecommunications carriers (ETCs) to “build-out” voice and (soon) broadband networks in high cost areas of the United States, including Puerto Rico. In exchange for this subsidy, these providers are required by the Commission to offer voice and eventually broadband service that will meet certain minimum service quality standards and prices. For broadband, these are the same service quality obligations that the Commission in the *Notice* proposes to incorporate into the Lifeline program. There is no legitimate reason why the Commission should allow carriers that receive billions of dollars per year in subsidies to build voice and broadband networks to “opt out” of having to sell those very same services to low-income consumers through the Lifeline program. Those high-cost Connect America Fund subsidies are funded through USF contributions assessed by providers through line-items on telephone and mobile phone bills, which low-income households, even those in the Lifeline program, pay. It would be a slap in the face to low-income consumers to allow a provider to say that while it is happy to receive subsidies paid for by those consumers to build a network, it will not participate in a program designed to help those low-income consumers actually use that network.

The Commission has placed a number of social obligations on ETCs that receive Connect America Fund (CAF) subsidies. CAF recipients must engage with Tribal authorities on network construction, must respond to requests for service from E-rate participants, and must engage with community anchor institutions on network needs. These are legitimate and important social obligations; participation in the Lifeline program is just as important and should similarly be required of all CAF recipients.

- I. Lifeline broadband benefits should be available to all entities that serve vulnerable, low-income populations, and the commission should “de-link” Lifeline benefits from the current monthly subscription model (Section II.C, ¶¶ 129-141)**

In paragraphs 121-41 of the *Notice*, the Commission asks several questions about increasing competition for the provision of Lifeline services, principally by making the process of achieving ETC certification easier or more streamlined.

The Board agrees that there should be a vibrant, competitive market for Lifeline services. The transition of Lifeline to broadband support is an opportunity to open up the program to a myriad of new service options. Unlike voice service, which can easily be defined and which has nearly a century of regulatory policies and expectations attached to it, broadband service and technology is rapidly evolving. In addition, reaching the most vulnerable populations – those without bank accounts, without stable addresses, or multiple families living at one address – may require a mixture of access technologies and services. The vision of Lifeline as a subsidy system for “monthly home subscriptions” simply will not work for citizens without a home or steady access to a desktop computer.

The Board recommends that in opening up the Lifeline program to more competition, the Commission should allow Lifeline funds to be used to discount broadband Internet access services and public computing centers offered by community institutions that are targeted to the

low-income community. This is particularly important in Puerto Rico, where the E-rate eligible public library system is not as strong as compared to the mainland.

In Puerto Rico, a major source of Internet access, use, and training for low-income populations are public computing centers. The Government of Puerto Rico has devoted substantial resources to expanding and improving the reach of many such public computing centers. For example, Centros Technologicos Comunitarios (CTC) were established in 2001. Each CTC provides public computing access and training to all residents of disadvantaged communities which the government has defined by factors including high unemployment rate, percentage of the population below the poverty line, and high school dropout rates. CTCs are now administered by municipalities, the Department of Education, public-private partnerships, and other community organizations.

The Board has been proactive in developing and funding these centers. In 2010, the Board added to these efforts by establishing a free Internet access center in each of the 78 municipalities in Puerto Rico, in coordination with central government agencies, municipalities, and private, educational and community entities. In 2014, the Board expanded digital literacy services at these locations.

On the mainland, similar public computing services are provided by public libraries, and funding for the connectivity of those services to these locations is funded by the E-rate program. However, Puerto Rico does not have a widespread public library system, and the CTCs and Internet Access Centers have taken on these roles.

The Board is an active partner and participants in many such initiatives. Earlier this year, the Board and the Puerto Rico Authority for Infrastructure Finance (AFI) entered into an agreement to provide necessary technical equipment to the Commonwealth's specialized,

residential academies to further digital learning opportunities for students. The Specialized Schools Project, valued at \$114,000, includes student devices and modernization of broadband Internet systems for these academies. The project was launched earlier this year by the Governor and the Board at three Residential Center for Educational Opportunities, in Villalba, Mayagüez, and Ceiba.²¹

To the extent that the public computing and broadband centers serve low-income populations, broadband services and tools to these locations that are ineligible for E-rate support should be eligible for Lifeline support. Indeed, many of these centers and schools serve the neediest of the needy – those without bank accounts, even without permanent addresses.

Because the computing centers and equipment projects provide broadband connectivity and tools to thousands of low-income consumers, the broadband services provided by those initiatives should be eligible for the Lifeline discount. The Lifeline program should not be “boxed into” a monthly, household subscription model, because that approach would leave the needs of many low-income consumers unaddressed. The Board urges the Commission to consider new methods of distributing Lifeline funds. For example, Lifeline support to these CTCs in Puerto Rico could be provided based on an analysis of the poverty rate of population served by the center, measurements of center usage, as well as the capacity (such as computers, hot spots, or desks) that the center offers. The Commission can establish a fixed connectivity subsidy for such centers that serve populations that meet certain thresholds, such as local community poverty rate above 90%, a certain level of foot traffic, and hours open to the public.

²¹ Oficina del Gobernador, La Fortaleza, “Gobernador entrega equipo tecnológico a escuelas públicas especializadas,” (Aug. 13, 2015), available at: <http://beta.ortaleza.pr.gov/content/gobernador-entrega-equipo-tecnologico-escuelas-p-blicas-especializadas>.

III. SUMMARY AND CONCLUSION

The Telecommunications Regulatory Board of Puerto Rico strongly supports expansion of the Lifeline program to broadband. The fixed broadband availability gap in Puerto Rico is large – the island-wide adoption rate is below 50% and is only 38% for low-income adults. Puerto Rico is currently facing historic economic challenges, and the Government is working hard to move Puerto Rico into the digital age.

Puerto Rico's challenge is the Commission's challenge. Puerto Rico's broadband adoption rate is substantially lower than **any** state. Nearly two million people in Puerto Rico do not have fixed broadband at home, more than in **forty states**. **Expanding Lifeline to broadband will only be a success if the program succeeds in Puerto Rico.**

Puerto Rico's experience with the Lifeline broadband pilot program, while limited in time and scope, demonstrated that progress can be made. During its short duration, more Puerto Rico residents signed up for Lifeline broadband than in all the other Lifeline pilot programs combined. In addition, marketing and outreach campaigns associated with the Lifeline pilot program coincided with a significant increase in broadband adoption among low-income households in Puerto Rico from 2012-2014. Progress can be made, and if properly done, a Lifeline broadband program can help bridge the gap the same way that Lifeline closed the gap for voice service adoption in Puerto Rico.

Since 2002, the Board has run a Lifeline fund in Puerto Rico that complements the federal universal service fund program. In these Comments, the Board offers a number of responses to the Commission's questions on Lifeline program administration and operation. In particular, the Board recommends that,

- The Commission establish a nationwide, third-party verification and qualification system for Lifeline benefits;
- Any national verification process or database should interface with existing state databases but should recognize that those databases may not contain all potentially qualifying families and adults;
- The Commission should not require states and territories to establish a validation database as a condition of receiving Lifeline funds;
- States and territories should be allowed to “opt out” of a national verification process, but as a condition of doing so, both the state and the Commission should put in place contingency plans for re-entry;
- Providers should be required to fund state and federal verification and implementation efforts through federal USF contributions. State verification efforts that meet national guidelines should be funded through federal USF contributions;
- To incent state and territorial participation and funding, the Commission should provide eligibility and accountability tools that will allow state and territorial governments to supplement the federal Lifeline fund;
- The Commission should explore coordinated enrollment with Puerto Rico social welfare agencies, in particular the Department of Family and the Department of Education. In doing so, the Commission must recognize that income levels to qualify for federal public assistance in Puerto Rico differ from the mainland, and that Puerto Rico families do not enroll in the National School Lunch Program;
- To avoid creating a “qualification gap,” the Commission should not limit the methods of qualification for Lifeline in Puerto Rico and should recognize and account for the unequal treatment of Puerto Rico in the federal Nutrition Assistance, SSI, and TANF Programs;
- All recipients of high-cost subsidies should be required to offer Lifeline services; and
- Lifeline broadband benefits should be available to all entities that serve vulnerable, low-income populations, and the Commission should “de-link” Lifeline benefits from the current monthly subscription model.

In conclusion, the Board welcomes the Commission's desire to reassess all aspects of its Lifeline program as it expands the program to include broadband. There are considerable opportunities to run the program more efficiently and effectively, and the Board is optimistic that it will be able to adapt its supplemental Puerto Rico Lifeline program to accommodate these changes. Doing so will require close coordination between the Commission and the Board, particularly given the different operation of federal assistance programs in Puerto Rico described above. The Board urges the Commission to work directly with it and the government of Puerto Rico to ensure that these well-intentioned decisions do not unwittingly create "qualification gaps" that would stymie the success of Lifeline in Puerto Rico.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'J. Rúa Jové', is written over the printed name and title.

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August 28, 2015